

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ARY Jewelers, LLC.,	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 04:-CV-10281 EFH
	)	
IBJTC Business Credit Corp. and	)	
David Molinario,	)	
Defendants.	)	

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PLAINTIFF'S NOTICE OF INTENTION TO TAKE THE ORAL DEPOSITION THE  
CUSTODIAN OF RECORDS OF IBJTC CREDIT CORPORATION  
WITH SUBPOENA DUCES TECUM

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TO: IBJTC Business Credit Corp., by and through their attorney of record Robert S. Fischler,  
Ropes & Gray, 45 Rockefeller Plaza, New York, NY 10111

NOTICE IS HEREBY GIVEN that Plaintiff, ARY Jewelers, Inc. by and through its attorney  
of record, will take the oral deposition of the Custodian of Records of IBJTC Business Credit  
Corporation, commencing at 9:00 a.m. on August 5, 2005 and will continue from day to day until  
complete at Ropes & Gray, 45 Rockefeller Plaza, New York 10111. Additionally, the witness  
is instructed to bring with him the items described in the attached Exhibit "A".

Respectfully submitted,

THE CARRIGAN LAW FIRM, L.L.P.

By:

*Stephen P. Carrigan*  
STEPHEN P. CARRIGAN

Federal I.D. No. 6112

Texas State Bar No. 03877000

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(713) 654-8100 (telephone)

(713) 752-2199 (telefax)

Attorney-in-Charge for Plaintiff

OF COUNSEL:

## EXHIBIT A

1. All documents relating to Plaintiffs.
2. All documents relating to ARY Jewelers, LLC.
3. All documents relating to, showing, describing or demonstrating Defendants' relationship to Plaintiff and/or Haji Abdul Razzak Yacoob or Gohar Husain.
4. All documents relating to any loan application, loan analysis or the like and relating to and/or originated from Plaintiffs.
5. All documents relating to Krigels, Inc.
6. All documents relating to, showing, describing or demonstrating Defendants' relationship to Krigels, Inc.
7. All documents relating to Plaintiff's attempt to purchase Krigels, Inc.
8. All documents relating to Plaintiff's attempt to obtain a loan (and any analysis thereof) from Defendants.
9. All documents relating to Plaintiff's attempt to obtain a loan (and any analysis thereof) from Defendants relating to the purchase of Krigels, Inc.
10. All documents relating to any rules, regulations, guidelines, policies, procedures, standards, customs, statutes, laws or the like relating to the transfer of information and/or communicating with other financial institutions about a customer, loan applicant, loan application or the like.
11. All communications, correspondence, e-mail, documents or the like passed to, forwarded to, from or between Foothill Capital and/or any related entity and Defendants and relating to Plaintiffs, Haji Abdul Razzak Yacoob or Gohar Husain, Krigels, Inc. or any loan application or proposed business deal.
12. All documents relating to, showing, describing, related to or demonstrating Defendants relationship with Foothill Capital and/or any related entity.
13. All documents relating to Defendant, David Molinario.
14. All documents relating to Thomas Morgan.
15. All employment related documents/files pertinent to Defendant, David Molinario.
16. All personnel files/documents pertinent to Defendant, David Molinario.

**THE CARRIGAN LAW FIRM, L.L.P.**

Jill L. Groff

State Bar No. 12057400

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Telephone: (713) 654-8100

Facsimile: (713) 752-2199

*Of Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing instrument was forwarded as indicated below by certified mail, facsimile and/or hand delivery, return receipt requested in accordance with the Federal Rules of Civil Procedure on this 21st day of July, 2005.

Robert S. Fischler

Robert S. Fischler

ROPES & GRAY

45 Rockefeller Plaza

New York, NY 10111

Tel: (212)841-0444

  
Stephen P. Carrigan/Jill L. Groff

17. All documents showing, describing and/or related to Defendant, David Molinario, i.e. job dates/position with Defendant IBJTC Business Credit Corp.
18. All documents forwarded to, from or between Thomas Morgan and Defendants.
19. All documents forwarded to, from or between Defendants and pertaining to Plaintiff or Haji Abdul Razzak Yacoob and/or Gohar Husain
20. All documents showing, describing, demonstrating and/or related to Defendant, David Molinario relationship with Foothill Capital.
21. All documents relating to the transfer of information from Defendants to Foothill Corp. and/or any related entity.
22. All documents relating to any investigation into the transfer of information from Defendants to Foothill Capital and/or any related entity.
23. All documents pertinent to any investigation into Plaintiff's allegations made the basis of Plaintiff's lawsuit.
24. All documents relating to any investigation, research into, background search/inquiries about or related to Plaintiffs, Haji Abdul Razzak Yacoob or Gohar Husain and/or any related entity and/or individual.
25. All documents relating to any consequences and/or proposed consequences, punishment, remedial measures or the like relating to Defendant David Molinario related to and/or arising out of the allegations of this lawsuit.
26. All documents relating to any remedial or preventative measures taken to prevent other transfers of information between Defendants and other financial institutions.
27. All documents relating to, showing, demonstrating and/or consisting of other unauthorized transfer of information between to, or from Defendants and any other financial institution in the past seven (7) years.
28. Any disciplinary and/or remedial measures, proposed, received or enacted to prevent such, or as a result of, the unauthorized transfer of information from, to or between the Defendants and any other financial institution.
29. All communications, correspondence, e-mail, documents, or the like, passed to, forwarded to, from or between Krigel's, Inc. and Defendants relating to any loan application or proposed business deal.
30. All documents received from Wells Fargo Retail Finance, L.L.C. (fka Foothill Capital) in response to Defendants' subpoena to the same served on or about May 14, 2004. Such request excludes the deposition transcripts of Foothill Capital employees deposed in the action entitled *ARY Jewelers, L.L.C. v. Scott Kriegel* [sic], filed in the Johnson County

District Court, Kansas City, MO, in or about April 2001.

31. All documents relating to Defendants' involvement in, or connection with, ARY's attempt to obtain financing from Defendant, Foothill Capital, and/or any other entity.
32. All documents relating to Foothill Capital's response to the information Defendants provided to Foothill Capital regarding ARY, Haji Abdul Razzak Yacoob, Gohar Husain, and/or any related person or entity.
33. To the extent not previously requested by Plaintiff's First Request for Production, all documents identified in Item B. of Defendants' Rule 26(a) 1 Initial Disclosures.
34. All notes, memoranda and other documents relating to communications between Defendants and ARY.
35. All business plans and projections relating to Kriegel's prepared by Kriegel's, ARY, or any other party.
36. All documents relating to the allegation at paragraph 13 of the First Amended Complaint relating to Defendants' accusation that Plaintiff engaged in illegal conduct including, but not limited to, all press articles pertaining to allegations of illegal conduct and any such documents Defendants saw, reviewed and/or forwarded to Foothill Capital, Tom Morgan, or any other person or entity.
37. The originals of all previously produced documents and/or documents responsive to this Subpoena Duces Tecum.
38. All original documents as they are kept in the regular course of business.
39. All original files of Foothill regarding or pertaining to Kriegel's, Inc. And/or ARY and as kept in the ordinary course of business.
40. All documents pertaining to any issued subpoenas in this lawsuit.
41. All originals and/or original copies of documents obtained in this lawsuit by a subpoena.